

## JOURNAL OF THE HOUSE.

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Monday, June 14, 2004.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Linsky of Natick in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Eternal God, we believe that the words we speak to You and the silent prayers which flow from within our hearts to You are known and heard by You, Our Creator. Our recognition of Your reality, presence and ways enables us to keep our goals, our lives and personal concerns, sometimes overpowering, in focus and in perspective. Today we celebrate Flag Day, which commemorates the adoption of the official United States flag. The flag is a symbol of the blessings and the freedoms which we enjoy as well as the dignity and importance of each person from the oldest adult to the youngest child. Help us to implement the spirit and the meaning of the flag in dealing with each other and current issues in our diverse society.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Linsky), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

### *Resolutions.*

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Messrs. Ayers of Quincy, Driscoll of Braintree and Timilty of Milton) congratulating Theodore Rubin;

Resolutions (filed by Messrs. Kafka of Stoughton and Galvin of Canton) congratulating Paul Flynn on the occasion of his retirement;

Resolutions (filed by Mr. Miceli of Wilmington) congratulating Mr. and Mrs. Richard Howlett on the occasion of their fiftieth wedding anniversary;

Resolutions (filed by Mr. Patrick of Falmouth and other members of the House) recognizing combat veteran dog handlers and their dogs; and

Resolutions (filed by Mrs. Teahan of Whitman) on the retirement of Chief of Police Richard L. Franey of the Abington Police Department;

Mr. Miceli of Wilmington, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Rushing of Boston, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Communications.

The following communications were read for the information of the House:

Communications

Barnstable Registry of Deeds, technology.

From the Barnstable County Registry of Deeds (under Section 2KKK of Chapter 29 of the General Laws, as inserted by Section 4 of Chapter 4 of the Acts of 2003) submitting a plan of proposed technological improvements at said registry (copies of said communication forwarded, as required by said law, to the committee on Ways and Means and the committee on Post Audit and Oversight); and

Dog racing, simulcasting.

From Wonderland Greyhound Park, Inc. (under the provisions of Paragraph 7 of Section 2 of Chapter 128C of the General Laws) submitting copies of contracts for the simulcasting of dog races;

Severally placed on file.

Annual and Special Reports.

Life Insurance Investments.

Of the Massachusetts Life Insurance Community Investment Initiative (under the provisions of Section 2G of Chapter 259 of the Acts of 1998) for the calendar year 2003;

Property and Casualty Initiative.

Of the Property and Casualty Initiative (under Section 3 of Chapter 259 of the Acts of 1998) for the fiscal year 2003;

911 System.

Of the Statewide Emergency Telecommunications Board (under Section 18B(e) of Chapter 6A of the General Laws) relative to the implementation of the enhanced emergency 9-1-1 public safety answering system and related matters; and

UMass Building Report.

Of the University of Massachusetts Building Authority (under the provisions of Chapter 773 of the Acts of 1960) for the fiscal year 2003; and

Unemployment Trust Fund status.

The monthly report of the Division of Unemployment Assistance (under the provisions of Section 14F of Chapter 151A of the General Laws) relative to the condition of the Commonwealth's Unemployment Trust Fund for April, 2004; and

Central Artery/Ted Williams Tunnel.

The quarterly report of the Massachusetts Turnpike Authority (under the provisions of Section 9 of Chapter 87 of the Acts of 2000) on the status of the Central Artery/Ted Williams Tunnel Projects;

Severally were placed on file.

Petitions.

Petitions severally were presented and referred as follows:

Boston, elections.

By Mr. Petruccelli of Boston, petition (accompanied by bill, House, No. 4844) of Anthony Petruccelli (with the approval of the mayor and city council) relative to regulating elections in the city of Boston. To the committee on Election Laws.

Boston, pedestrians.

By the same member, petition (accompanied by bill, House, No. 4845) of Anthony Petruccelli (with the approval of the mayor and city council) relative to the operation of motor vehicles at crosswalks in the city of Boston. To the committee on Transportation.

Boston, contracting procedures.

By the same member, petition (accompanied by bill, House, No. 4846) of Anthony Petruccelli (with the approval of the mayor and city council) relative to contracting procedures in the city of Boston;

By Mr. Rogers of Norwood, petition (accompanied by bill, House, No. 4847) of John H. Rogers (by vote of the town) that the town of Norwood be authorized to lease a certain parcel of land to the Y.M.C.A. of Greater Boston; and

Norwood, land lease.

By Mr. Wagner of Chicopee, petition (accompanied by bill, House, No. 4848) of Joseph F. Wagner (with the approval of the mayor and city council) that the city of Chicopee be authorized to convey certain park land;

Chicopee, park land.

Severally to the committee on State Administration.

By Mr. Kafka of Sharon, petition (accompanied by bill, House, No. 4849) of Louis L. Kafka, Jo Ann Sprague and Brian A. Joyce (by vote of the town) relative to tax deferral agreements in the town of Sharon. To the committee on Taxation.

Sharon, tax deferral agreements.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Kafka of Sharon, petition (subject to Joint Rule 12) of Louis L. Kafka, William C. Galvin and Brian A. Joyce that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land located in the town of Stoughton to said town.

Stoughton, land conveyance.

By Ms. Polito of Shrewsbury, petition (subject to Joint Rule 12) of Karyn E. Polito and Guy W. Glodis that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land to the Shrewsbury Housing Authority.

Shrewsbury Housing Authority, land.

By Mr. Rogers of Norwood, petition (subject to Joint Rule 12) of John H. Rogers (by vote of the town) relative to authorizing the town of Norwood to grant a retirement pension to Joseph Fernandes, a police officer of said town.

Norwood, Joseph Fernandes

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

The House Order relative to extending until Wednesday, July 28, 2004 the time within which the committee on Government Regulations is authorized to report on current House document numbered 25 came from the Senate with the endorsement that it had been adopted, in concurrence, with an amendment striking out the date "Wednesday, July 28, 2004" and inserting in place thereof the date "Thursday, July 1, 2004".

Government Regulations committee, extension of time for reporting.

Under suspension of Rule 35, on motion of Ms. Story of Amherst, the amendment was considered forthwith; and it was adopted, in concurrence.

A Bill further regulating the sale and distribution of bottled water and certain other nonalcoholic beverages (Senate, No. 2162) (on Senate, No. 570 and House, No. 2051), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33D, to the committee on Homeland Security and Federal Affairs.

Bottled water, distribution.

Bills

Protecting charities and other organizations from identity theft (Senate, No. 159) (on House, No. 2740);

Charities, identify theft.

Shellfish wardens.  
Voters, information.  
Warrantless arrest.

Relative to the shellfish wardens training program (Senate, No. 1238) (on a petition);

Authorizing cities, towns and regional districts to send certain information to registered voters (Senate, No. 2221) (on Senate, No. 1982);

Authorizing the warrantless arrest for reckless or negligent vehicular homicide and reckless or negligent operation (Senate, No. 2286, amended by striking out section 2 and inserting in place thereof the following section:

“SECTION 2. Section 21 of chapter 90 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the word ‘person’, in line 34, the following words:—, or whoever operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered in violation of paragraph (a) of subdivision (2) of section 24, or whoever commits motor vehicle homicide in violation of subsection (a) or (b) of section 24G.”) (on Senate, No. 938);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Bills

Unsolicited loans, protections.

Protecting consumers from unsolicited loans (Senate, No. 9, amended in section 2, in line 9, by striking out the word “and” (the second time it appears) and inserting in place thereof the word “or”; in section 4, in line 1, by striking out the words “financial institution or lender that receives” and inserting in place thereof the words “paying bank that has paid”, and in lines 5 and 6, by striking out the words “an exact facsimile” and inserting in place thereof the words “a substitute check”; in section 5, in lines 6, 7 and 8, by striking out the sentence contained therein; and by striking out section 9 and inserting in place thereof the following section:

“SECTION 9. (a) No financial institution or lender shall transfer any funds held in an account of the addressee in the financial institution as a consequence of a default of a debt owed to such institution as a result of the unauthorized use or fraudulent negotiation of an unsolicited loan instrument.

(b) Nothing in this chapter shall prohibit a financial institution from advancing money or credit in accordance with law and pursuant to a customer relationship, as defined in the Gramm-Leach-Bliley Act of 1999, 15 U.S.C. section 6809 (11), or a valid mortgage or loan agreement.”) (on a petition);

State police spouses, benefits.

Relative to certain benefits for the surviving spouses of certain state police officers (Senate, No. 1406, amended by adding at the end thereof the following sentence: “The recalculated retirement allowance shall apply prospectively from the effective date of this act.”) (on Senate, No. 1406 and House, No. 1922);

Harbor-masters, retirement.

Relative to the retirement benefits for certified harbormasters and assistant harbormasters of cities and towns (Senate, No. 1473) (on a petition);

Health plans, licensure.

Relative to the licensure and accreditation of health plans (Senate, No. 2340) (on Senate bill, No. 2132);

Relative to the Cape Cod Land and Aquifer Protection Fund (Senate, No. 2353) (on Senate bill, No. 1243);

Cape Cod, land fund.

Establishing standards for consumer credit counseling (Senate, No. 2266, amended in lines 49 to 53, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

Credit counseling.

“Credit counseling services may only be rendered by: (i) an attorney licensed to practice in the commonwealth; (ii) a nonprofit charitable corporation; (iii) a corporation that is recognized by the Internal Revenue Service as exempt from federal income tax; or (iv) a corporation organized under the laws of the commonwealth; but, if the corporation is not a nonprofit charitable corporation or a corporation that is recognized by the Internal Revenue Service as exempt from federal income tax, the corporation shall include a statement on all written materials provided to consumers that the corporation is operated for profit.”; by striking out the paragraph contained in lines 97 and 98 and inserting in place thereof the following paragraph:

“(b) any certificates or reports filed by the applicant with the state secretary as required by the commissioner.”; and by inserting after line 102 the following paragraph:

“(e) evidence of a valid license to practice law or any other document or information that the commissioner shall prescribe.”) (on Senate, Nos. 8, 32, 391 and 430);

Authorizing the acquisition and conveyance of certain parcels of land in Bourne (Senate, No. 2377) (on a part of Senate bill, No. 1679);

Bourne, land conveyance.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

Communications severally were received from the Senate; and they were referred, in concurrence, as follows:

From the Health Care Security Trust (under the provisions of Section 4(h) of Chapter 29D of the General Laws) submitting rules and regulations governing retirement of public employees in the Commonwealth (Senate, No. 2378). To the committee on Health Care.

Health Care Security Trust.

From the Public Employee Retirement Commission (under the provisions of Section 50 of Chapter 7 of the General Laws) relative to rules and regulations governing retirement of public employees in Massachusetts (Senate, No. 2379). To the committee on Public Service.

PERAC, rules and regulations.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2380) of Bruce E. Tarr, Bradford Hill and Barbara A. L’Italien (by vote of the town) for legislation to authorize the town of Boxford to release its interests in the Berry Patch Trail easement. To the committee on State Administration.

Boxford, Berry Patch Trail.

Petition (accompanied by bill, Senate, No. 2381) of Bruce E. Tarr, Bradford Hill and Barbara A. L’Italien (by vote of the town) for legislation to authorize the town of Boxford to provide property tax relief. To the committee on Taxation.

Boxford, property tax.

Reports of Committees.

Natick, alcoholic beverage sales.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Government Regulations to make an investigation and study of certain House documents concerning licensing, utilities, alcohol, ticket reselling, vital statistics, racing, gaming and telecommunications (House, No. 4615), reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4378) of David Paul Linsky, Alice Hanlon Peisch, David P. Magnani and Cheryl A. Jacques (by vote of the town) relative to the sale of alcoholic beverages to be drunk on the premises of certain clubs or veterans' organizations in the town of Natick,— and recommending that the same be recommitted to the committee on Government Regulations. Under Rule 42, the report was considered forthwith; and it was accepted.

Bank efficiencies.

By Mr. Quinn of Dartmouth, for the committee on Banks and Banking, on House, Nos. 8, 11, 295, 485, 663, 664, 1239, 3109 and 4120, an Order relative to authorizing the committee on Banks and Banking to make an investigation and study of certain House documents concerning bank efficiencies, pawnbrokers and other related matters House, No. 4835).

Mortgage companies.

By the same member, for the same committee, on House, No. 3107, an Order relative to authorizing the committee on Banks and Banking to make an investigation and study of a certain House document concerning community reinvestment mortgage companies (House, No. 4836).

Vocational education, study.

By Ms. St. Fleur of Boston, for the committee on Education, Arts and Humanities, on Senate, Nos. 245, 262, 273, 274 and 311 and House, Nos. 507, 871, 1068, 1073, 1257, 1454, 1641, 1854, 2224, 3319, 3321, 3491 and 3639, an Order relative to authorizing the committee on Education, Arts and Humanities to make an investigation and study of certain Senate and House documents concerning vocational education, class size and transportation (House, No. 4837).

School finances, study.

By the same member, for the same committee on on House, No. 4699, an Order relative to authorizing the committee on Education, Arts and Humanities to make an investigation and study of a certain House document concerning school finances (House, No. 4838).

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Scaccia of Boston, for said committees, reported, in each instance, asking to be discharged from further consideration of said orders; and recommending that the same severally be referred to the House committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Volunteers.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Bill relative to creditable service for service rendered as a volunteer in the Peace Corps and Americorps (House, No. 4110) be scheduled for consideration by the House. Placed in the Orders of the Day for the next sitting for a second reading, with an amendment (previously recommended by the committee on Ways and Means) pending.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to repeat offenders (House, No. 4183) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4843). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Drunk driving, repeat offenders.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting for a second reading, with the amendment pending.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing the towns of Dennis and Brewster to grant conservation restrictions to the Department of Conservation and Recreation (Senate, No. 2196) ought to pass. [Local Approval Received], Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Dennis and Brewster conservation.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting for a second reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

Senate bills

Authorizing the town of Rockland to grant 3 additional licenses for the sale of all alcoholic beverages to be drunk on the premises (Senate, No. 2072); and

Rockland.

Authorizing the Division of Capital Asset Management and Maintenance to transfer a certain parcel of conservation/recreation land within the town of Sandwich (Senate, No. 2117); and

Sandwich.

House Bills

To strengthen neighborhood business districts (House, No. 189); To clarify eligibility for health insurance for school employees (House, No. 241);

Businesses.

School employees.

Relative to the appointment of certain town officials (House, No. 584);

Town officials.

To clarify the scope of authority of ordinances and by-laws adopted by municipal governments (House, No. 585);

Ordinances.

Amending the procedures for supporting the operation of charter commissions elected by the voters (House, No. 586);

Charter commissions.

Relative to settlement and incorporation celebrations of cities and towns (House, No. 1150);

Municipal celebrations.

Relative to housing (House, No. 1295);

Housing.

To protect the public from condemned, vicious dogs (House, No. 1439);

Vicious dogs.

Establishing uniform primary procedures for unenrolled voters (House, No. 2229);

Unenrolled voters.

Relative to the composition of the Massachusetts Water Resources Authority Board of Directors (House, No. 2844);

MWRB board.

Relative to the use of out-of-state motor vehicle licenses as valid identification (House, No. 3013);

Identification.

Carbon monoxide. Requiring carbon monoxide detectors in residential buildings (House, No. 3209);

Bairtball. Regulating the sale and use of paintball game equipment (House, No. 3214);

Homicide. Criminally negligent homicide (House, No. 3486);

Health care. Relative to regional health care (House, No. 3752);

Franklin County. Relative to the Franklin County Regional Housing and Redevelopment Authority (House, No. 4040);

Lakeville. Authorizing the town of Lakeville to establish a consultant account (House, No. 4086) [Local Approval Received];

Auburn and Woodland. Merging the Woodland Water District of Auburn with the Auburn Water District (House, No. 4333);

Winchendon. Establishing a capital investment fund in the town of Winchendon (House, No. 4338) [Local Approval Received];

Studded tires. Relative to the legal dates for operating a motor vehicle with metal studded tires (House, No. 4397);

Watertown. Relative to the charter of the city known as the town of Watertown (House, No. 4399) [Local Approval Received];

Brookline. Authorizing the treasurer of the town of Brookline to invest the trust funds of said town in accordance with the Prudent Man Rule (House, No. 4400);

Marion. Relative to the town of Marion apportioning sewer assessments over a maximum of thirty annual payments and charging interest at a rate of interest chargeable to the town (House, No. 4402) [Local Approval Received];

Orleans. Validating certain health insurance payments made by the town of Orleans (House, No. 4427) [Local Approval Received];

Mashpee. Relative to the appointment of retired police officers within the town of Mashpee police department (House, No. 4441) [Local Approval Received];

Williamsburg. Validating the action taken at a special town meeting held by the town of Williamsburg (printed in House, No. 4445);

Hamilton. Authorizing the town of Hamilton to convey certain land (House, No. 4449) [Local Approval Received];

Wayland. Authorizing the town of Wayland to incur certain debt (House, No. 4450) [Local Approval Received];

Gloucester. Relative to certain land sales in the city of Gloucester (House, No. 4451) [Local Approval Received];

Kayaks. Relative to kayaks (House, No. 4456, changed);

Ashby. Authorizing the town of Ashby to establish a capital reserve account (House, No. 4474) [Local Approval Received];

Leominster. Authorizing the town of Leominster to grant a certain abatement (House, No. 4499) [Local Approval Received];

Harbormasters. Relative to the appointment of certified harbormasters in the Commonwealth (House, No. 4588); and

Peabody. Providing for abatement of taxes caused by a fire in the city of Peabody on December 18, 2003 (House, No. 4611) [Local Approval Received];

Severally placed in the Orders of the Day for the next sitting for a second reading.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill to eliminate mercury emissions from automobiles (House, No. 4517) ought to pass with certain amendments. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendments pending.

Automobiles,  
mercury  
emissions.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill establishing a sick leave bank for Melissa J. Cornell, an employee of the Trial Court of the Commonwealth (House, No. 4765). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Melissa J.  
Cornell.

#### *Emergency Measure.*

The engrossed Bill relative to the dissemination of criminal offender record information to the operators of camps for children (see House, No. 4610, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Camp  
counselors,  
information.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 7 to 0. Sent to the Senate for concurrence.

#### *Engrossed Bills.*

Engrossed bills

Establishing the Ipswich affordable housing trust fund (see Senate, No. 1987, amended) (which originated in the Senate);

Relative to certain commercial contracts of insurance (see House, No. 1700);

Relative to liquor legal liability insurance (see House, No. 1881);

Amending the charter of the town of Andover (see House, No. 3887, changed);

Authorizing the town of Bellingham to establish a compensated absence fund (see House, No. 4102); and

Authorizing the town of Greenfield to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (see House, No. 4743);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Bills  
enacted.

#### *Quorum.*

Mr. Peterson of Grafton then asked for a count of the House to ascertain if a quorum was in attendance.

Quorum.

A quorum not being present, under the provisions of Rule 82, the Chair (Mr. Linsky of Natick), at ten minutes after eleven o'clock A.M., declared an adjournment of the House until tomorrow at eleven o'clock A.M.